

# **COMMITTEE ON MODEL CRIMINAL JURY INSTRUCTIONS THIRD CIRCUIT**

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## **REPORTERS:**

Professor Anne Bowen Poulin  
Professor James A. Shellenberger

## **STAFF:**

Theresa Burnett, Esq.  
Susan Mangino

## **INTRODUCTION:**

In the summer of 2004 Chief Judge Anthony J. Scirica appointed a Committee of district judges to draft model criminal jury instructions to help judges communicate more effectively with juries. He and the Committee enlisted Professor James A. Shellenberger of Temple University Law School and Professor Anne Bowen Poulin of Villanova University School of Law to serve as Reporters for the Committee. The Committee also appointed an Advisory Committee including representatives of the U.S. Attorney's Office, the Federal Defender's Office and private defense counsel from each of the Districts in the Circuit. Their comments on our proposed instructions have been essential. A list of the members of the Advisory Committee follows. Throughout its work the Committee and the Reporters also received assistance from Circuit Executive, Toby Slawsky, and Circuit staff members Theresa Burnett, Esq. and Susan Mangino. The project was funded by contributions from the Court of Appeals and each District Court in the Third Circuit.\*

The Committee commenced its work in September 2004. It decided to draft general instructions applicable in all criminal jury trials, instructions for use when specific issues arise and instructions covering the most frequently prosecuted federal crimes. The final set of model

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\*Neither the Court of Appeals nor any judge of that Court participated in the drafting of the model instructions and the Court of Appeals has not in any manner approved the use of these instructions.

instructions will include preliminary instructions, instructions for use during trial, and final instructions. In addition to model instructions, the Committee is preparing comments to accompany those instructions. They should be useful to district court judges not only when they draft final jury instructions but also during trial. The extraordinary efforts of the Reporters and the scholarly strength they brought to the task of drafting these instructions cannot be over-emphasized.

We recognize that the manner of instructing a jury varies widely among judges. These model instructions are available to judges and litigants to be used in their discretion in tailoring the instructions in a particular case. They are intended to be model, not mandatory, instructions. Every effort has been made to assure conformity with current Third Circuit law; however, it cannot be assumed that all of these model instructions in the form given will necessarily be appropriate under the facts of a particular case or that the Third Circuit will approve these instructions, if given.

The subject matter of the Model Criminal Jury Instructions is set forth in the Table of Contents that follows. The task of drafting these instructions is not yet complete. To date, the Committee has approved final versions of the instructions contained in Chapters 1 and 2, which are available on this website. We call your attention particularly to the instructions in Chapter 2 which we believe will be extremely helpful to trial judges and lawyers as to the language of the instruction and the law which applies to its use in order to resolve issues that arise during the course of a trial. Chapters 3, 4 and 5 have been submitted to the Advisory Committee for comment and will likely be available on the website in the next two months. Additional chapters will be posted as they are completed. Eventually all instructions will be published by Thomson West.

By referring to the Table of Contents beginning with General Instruction No. 1.01 and then proceeding through the Table of Contents one may select particular instructions. It must be emphasized, however, that every case is unique, having its particular fact pattern, and care must be exercised when adapting the model instructions to the individual case. Some of the instructions may contain paragraphs or sentences that address issues not relevant to the case actually being tried. All unnecessary concepts and terms should be removed so the instructions may properly focus the attention of the jury only on the precise issue or issues that it is being asked to resolve and nothing else.

These Model Criminal Jury Instructions remain a work in progress. The law develops as time passes. Even as the instructions were being assembled in final form opinions of the Court of Appeals came down that required additions or revisions. Undoubtedly, judges and lawyers who use these Instructions will have suggestions for improvement. As these instructions are used, if a judge or lawyer believes improvements can be made in the clarity of any instruction, or that a particular instruction is in error, we would appreciate being advised. The Committee will meet periodically with its Reporters to review developments in the law and the comments of those who use the model instructions. Revised editions will be issued from time to time. The Committee hopes that this work will ease the burden of district judges in preparing their jury instructions and will also provide a technique for the rapid preparation and assembly of complete instructions in suitable form for submission to the jury.

[Click here](#) to link to the Table of Contents and the Model Criminal Jury Instructions. The documents are provided in two formats: WordPerfect and PDF (for easy referral to just the Table of Contents, you should save the Table of Contents web page as one of your “favorites”) You may e-mail any comments to: [Tburnett\\_comments\\_juryinstructions@ca3.uscourts.gov](mailto:Tburnett_comments_juryinstructions@ca3.uscourts.gov) Comments will be provided to the Committee for consideration at a future meeting.

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